

HOUSE BILL NO. 428

INTRODUCED BY M. YAKAWICH, G. NIKOLAKAKOS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO MOBILE HOME PARKS; REVISING RENTAL AGREEMENT LENGTH OF TENANCY; EXTENDING THE TIMELINE TO DISPOSE OF AN ABANDONED MOBILE HOME; PROVIDING TIMELINES FOR EVICTION REGARDING CERTAIN TERMINATED RENTAL AGREEMENTS; AND AMENDING SECTIONS 70-33-201, 70-33-429, AND 70-33-432, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-33-201, MCA, is amended to read:

"70-33-201. Rental agreements. (1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule or law.

(2) Unless the rental agreement provides otherwise:

(a) the tenant shall pay as rent the rental value, as provided in subsection (5), for the use and occupancy of the lot as determined by the landlord;

(b) rent is payable at the landlord's address or using electronic funds transfer to an account designated for the payment of rent by the landlord;

(c) periodic rent is payable at the beginning of a term that is a month or less and otherwise in equal monthly installments at the beginning of each month;

(d) rent is uniformly apportionable from day to day;

(e) ~~the tenancy is from month to month~~ except as provided in subsection (4), the tenancy is for 1 year; and

(f) if either party terminates the rental agreement without cause prior to the expiration date of the lease term, the aggrieved party is entitled to monetary damages up to 1 month's rent or an amount that is agreed on in the rental agreement, which may not exceed 1 month's rent if the tenancy is for 1 year or 2 months' rent if the tenancy is for 2 years as allowed in subsection (4). Landlords shall follow 70-33-426(2) and

1 are entitled to rent from defaulting tenants up to the date a new tenancy starts or the date the rental agreement
2 term expires.

3 (3) Rent is payable without demand or notice at the time and place agreed ~~upon~~on by the parties
4 or as provided by subsection (2).

5 (4) (a) Unless the tenant has violated a requirement of this chapter, 60 days before the expiration
6 of a rental agreement, the landlord shall offer the tenant a renewal rental agreement with a tenancy of at least 2
7 years from the date of renewal. A renewal rental agreement allowed in this subsection (4)(a) must include:

8 (i) the proposed rental amount for the duration of the tenancy; and

9 (ii) any change to the previous rental agreement, including but not limited to changes to fees,
10 rules, or length of tenancy.

11 (b) If the resident does not accept and agree to a renewal rental agreement as allowed in
12 subsection (4)(a), the tenancy is for 1 year.

13 (5) The rental value for the use and occupancy of a lot must include the fees for all utilities unless
14 otherwise agreed to by both parties. Any utility rate charged to the tenant must be the same utility rate that the
15 landlord pays to receive the service."

16

17 **Section 2.** Section 70-33-429, MCA, is amended to read:

18 **"70-33-429. Holdover remedies -- consent to continued occupancy.** (1) ~~If~~Except as allowed in
19 [section 4], if the tenant remains in possession without the landlord's consent after expiration of the term of the
20 rental agreement or other termination of the rental agreement, the landlord may bring an action for possession.
21 If the tenant's holdover is purposeful and not in good faith, the landlord may recover an amount of not more
22 than 3 months' rent or treble damages, whichever is greater.

23 (2) In an action for possession or unlawful holdover, the provisions of Title 25, chapter 23, apply,
24 except that the time for filing an answer under Rule 4C(2)(b) is 10 days after service of summons and
25 complaint, exclusive of the date of service.

26 ~~(3) If the landlord consents to the tenant's continued occupancy, 70-33-201(2)(e) applies."~~

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28 **Section 3.** Section 70-33-432, MCA, is amended to read:

1 **"70-33-432. Disposition of abandoned mobile home.** (1) If a tenancy terminates, if the landlord
 2 reasonably believes that the tenant has abandoned a mobile home occupying a mobile home lot, and if at least
 3 5 days have elapsed since the occurrence of events upon which the landlord has formed the belief that the
 4 mobile home has been abandoned, the landlord may remove the mobile home from the premises or keep the
 5 mobile home stored on the premises.

6 (2) If the landlord does not keep the mobile home stored on the premises, the landlord shall store
 7 the mobile home in a place of safekeeping and in either case shall exercise reasonable care for the mobile
 8 home. The landlord may charge the mobile home owner reasonable removal and storage charges.

9 (3) Regardless of where the landlord stores the mobile home, the landlord shall:

10 (a) notify the local law enforcement office of the storage;

11 (b) make a reasonable effort to determine if the mobile home is secured or otherwise encumbered;

12 and

13 (c) send a notice by certified mail to the last-known address of the mobile home owner and to any
 14 person or entity the landlord determines has an interest referred to in subsection (3)(b), stating that at a
 15 specified time, not less than ~~45~~30 days after mailing the notice, the mobile home will be disposed of if the
 16 mobile home owner does not respond and remove the mobile home.

17 (4) If the mobile home owner, within ~~45~~30 days after receipt of the notice provided for in
 18 subsection (3)(c), responds in writing to the landlord that the owner intends to remove the mobile home from
 19 where it is stored and does not do so within ~~20~~30 days after delivery of the owner's response, the mobile home
 20 may be conclusively presumed to be abandoned. A landlord is entitled to payment of the removal and storage
 21 costs allowed under subsection (2) before the owner may remove the mobile home.

22 (5) The landlord may dispose of the mobile home after complying with subsection (3) by:

23 (a) selling the mobile home at a public or private sale; or

24 (b) destroying or otherwise disposing of the mobile home if the landlord reasonably believes that
 25 the value of the mobile home is so low that the cost of a sale would exceed the reasonable value of the mobile
 26 home. Disposal may include having the mobile home removed to an appropriate disposal site.

27 (6) A public or private sale authorized by this section must be conducted under the provisions of
 28 30-9A-610 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

1 (7) The landlord has a lien on the mobile home and the proceeds of a sale conducted pursuant to
 2 subsection (6) for the reasonable costs of removal, storage, notice, sale, or delinquent rent or damages owing
 3 on the premises. The sale proceeds are subject to any prior security interest of record. A writing or recording is
 4 not necessary to create the lien provided for in this section. In the case of a sheriff's sale, the sheriff shall
 5 conduct the sale upon receipt of an affidavit from the landlord stating facts sufficient to warrant a sale under this
 6 section. After satisfaction of the lien, the landlord shall remit to the mobile home owner the remaining proceeds,
 7 if any. If the owner cannot after due diligence be found, the remaining proceeds must be deposited in the
 8 general fund of the county in which the sale occurred and, if not claimed within 3 years, are forfeited to the
 9 county."

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11 NEW SECTION. Section 4. Timeline for eviction. After a rental agreement is terminated pursuant to
 12 70-33-433(1)(a) or 70-33-433(1)(d):

13 (1) the landlord may not initiate eviction proceedings against the tenant until 45 days have passed
 14 from the date the final notice was received as required in 70-33-433; and

15 (2) the sheriff may not execute an eviction order within 30 days from the date a court issues an
 16 order for eviction or a writ of possession.

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18 NEW SECTION. Section 5. Codification instruction. [Section 4] is intended to be codified as an
 19 integral part of Title 70, chapter 33, part 4, and the provisions of Title 70, chapter 33, part 4, apply to [section 4].

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